

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 5
92ND GENERAL ASSEMBLY

Reported from the Committee on Crime Prevention and Public Safety, May 13, 2003, with recommendation that the House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 5 Do Pass.

STEPHEN S. DAVIS, Chief Clerk

0356L.10C

AN ACT

To repeal sections 50.550, 56.807, 84.570, 195.417, 217.305, 217.362, 217.380, 217.750, 217.760, 478.610, 513.653, 556.061, 557.036, 558.011, 558.016, 558.019, 559.021, 559.026, 559.115, 565.081, 565.082, 565.083, 568.045, 570.030, 570.040, 571.030, 589.400, 589.407, 589.414, and 595.209, RSMo, and to enact in lieu thereof thirty-seven new sections relating to crime, with penalty provisions and an emergency clause.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 50.550, 56.807, 84.570, 195.417, 217.305, 217.362, 217.380, 217.750, 217.760, 478.610, 513.653, 556.061, 557.036, 558.011, 558.016, 558.019, 559.021, 559.026, 559.115, 565.081, 565.082, 565.083, 568.045, 570.030, 570.040, 571.030, 589.400, 589.407, 589.414, and 595.209, RSMo, are repealed and thirty-seven new sections enacted in lieu thereof, to be known as sections 50.550, 50.565, 56.807, 84.570, 195.417, 217.105, 217.305, 217.343, 217.362, 217.380, 217.750, 217.760, 478.610, 488.026, 488.5026, 513.653, 556.061, 557.036, 558.011, 558.016, 558.019, 559.021, 559.026, 559.115, 565.081, 565.082, 565.083, 565.305, 565.350, 568.045, 570.030, 570.040, 571.030, 589.400, 589.407, 589.414, and 595.209, to read as follows:

50.550. **1.** The annual budget shall present a complete financial plan for the ensuing budget year. It shall set forth all proposed expenditures for the administration, operation and maintenance of all offices, departments, commissions, courts and institutions; the actual or

EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law. Matter in boldface type in the above law is proposed language.

4 estimated operating deficits or surpluses from prior years; all interest and debt redemption
5 charges during the year and expenditures for capital projects.

6 **2.** The budget shall contain adequate provisions for the expenditures necessary for the
7 care of insane pauper patients in state hospitals, for the cost of holding elections and for the costs
8 of holding circuit court in the county that are chargeable against the county, for the repair and
9 upkeep of bridges other than on state highways and not in any special road district, and for the
10 salaries, office expenses and deputy and clerical hire of all county officers and agencies.

11 **3.** In addition, the budget shall set forth in detail the anticipated income and other means
12 of financing the proposed expenditures.

13 **4.** All receipts of the county for operation and maintenance shall be credited to the
14 general fund, and all expenditures for these purposes shall be charged to this fund; except, that
15 receipts from the special tax levy for roads and bridges shall be kept in a special fund and
16 expenditures for roads and bridges may be charged to the special fund.

17 **5.** All receipts from the sale of bonds for any purpose shall be credited to the bond fund
18 created for the purpose, and all expenditures for this purpose shall be charged to the fund. All
19 receipts for the retirement of any bond issue shall be credited to a retirement fund for the issue,
20 and all payments to retire the issue shall be charged to the fund. All receipts for interest on
21 outstanding bonds and all premiums and accrued interest on bonds sold shall be credited to the
22 interest fund, and all payments of interest on the bonds shall be charged to the interest fund.

23 **6. Subject to the provisions of section 50.565 the county commission may create a**
24 **fund to be known as "The County Crime Reduction Fund".**

25 **7.** The county commission may create other funds as are necessary from time to time.

50.565. 1. A county commission may establish by ordinance or order a fund whose
2 **proceeds may be expended only for the purposes provided for in subsection 3 of this**
3 **section. The fund shall be designated as a county crime reduction fund and shall be under**
4 **the supervision of a board of trustees consisting of one citizen of the county appointed by**
5 **the presiding commissioner of the county, one citizen of the county appointed by the sheriff**
6 **of the county, and one citizen of the county appointed by the county prosecuting attorney.**

7 **2. Money from the county crime reduction fund shall only be expended upon the**
8 **approval of a majority of the members of the county crime reduction fund's board of**
9 **trustees and only for the purposes provided for by subsection 3 of this section.**

10 **3. Money from the county crime reduction fund shall only be expended for the**
11 **following purposes:**

12 **(1) Narcotics investigation, prevention, and intervention;**

13 **(2) Purchase of law enforcement related equipment and supplies for the sheriff's**
14 **office;**

- 15 **(3) Matching funds for federal or state law enforcement grants;**
16 **(4) Funding for the reporting of all state and federal crime statistics or information;**
17 **and**
18 **(5) Any law enforcement related expense, including those of the prosecuting**
19 **attorney, approved by the board of trustees for the county crime reduction fund that is**
20 **reasonably related to investigation, preparation, trial, and disposition of criminal cases**
21 **before the courts of the state of Missouri.**
- 22 **4. The county commission may not reduce any law enforcement agency's budget**
23 **as a result of funds the law enforcement agency receives from the county crime reduction**
24 **fund. The crime reduction fund is to be used only as a supplement to the law enforcement**
25 **agency's funding received from other county, state, or federal funds.**
- 26 **5. County crime reduction funds shall be audited as are all other county funds.**
- 2 56.807. 1. **Beginning August 28, 1989, and continuing monthly thereafter until**
3 **August 27, 2003,** the funds for prosecuting attorneys and circuit attorneys provided for in
4 subsection 2 of this section shall be paid from county or city funds.
- 5 2. Beginning [thirty days after the establishment of this system] **August 28, 1989,** and
6 **continuing** monthly thereafter **until August 27, 2003,** each county treasurer shall pay to the
7 system the following amounts to be drawn from the general revenues of the county:
- 8 (1) For counties of the third and fourth classification except as provided in subdivision
9 (3) of this subsection, three hundred seventy-five dollars;
10 (2) For counties of the second classification, five hundred forty-one dollars and
11 sixty-seven cents;
12 (3) For counties of the first classification, counties which pursuant to section 56.363
13 elect to make the position of prosecuting attorney a full-time position after August 28, 2001, or
14 whose county commission has elected a full-time retirement benefit pursuant to subsection 3 of
15 section 56.363, and the city of St. Louis, one thousand two hundred ninety-one dollars and
16 sixty-seven cents.
- 17 3. **Beginning August 28, 1989, and continuing until August 27, 2003,** the county
18 treasurer shall at least monthly transmit the sums specified in subsection 2 of this section to the
19 Missouri office of prosecution services for deposit to the credit of the "Missouri Prosecuting
20 Attorneys and Circuit Attorneys' Retirement System Fund", which is hereby created. All moneys
21 held by the state treasurer on behalf of the system shall be paid to the system within ninety days
22 after August 28, 1993. Moneys in the Missouri prosecuting attorneys and circuit attorneys'
23 retirement system fund shall be used only for the purposes provided in sections 56.800 to 56.840
24 and for no other purpose.
- 24 4. **Beginning August 28, 2003, the funds for prosecuting attorneys and circuit**

25 attorneys provided for in this section shall be collected and paid as follows:

26 (1) There shall be assessed and collected a surcharge of six dollars in all criminal
27 cases filed in the courts of this state including violation of any county ordinance or any
28 violation of criminal or traffic laws of this state, including infractions, but no such
29 surcharge shall be assessed when the costs are waived or are to be paid by the state, county,
30 or municipality or when a criminal proceeding or the defendant has been dismissed by the
31 court or against any person who has pled guilty and paid their fine pursuant to subsection
32 4 section 476.385, RSMo. For the purposes of this section, the term "county ordinance"
33 shall include any ordinance of the City of St. Louis;

34 (2) The clerk responsible for collecting court costs in criminal cases shall collect and
35 disburse such amounts as provided by sections 488.010 to 488.026, RSMo. Such funds shall
36 be payable to the prosecuting attorneys and circuit attorneys' retirement fund moneys
37 credited to the prosecuting attorneys and circuit attorneys' retirement fund shall be used
38 only for the purposes provided for in sections 56.800 to 56.840 and for no other purpose.

39 5. The board may accept gifts, donations, grants and bequests from private or public
40 sources to the Missouri prosecuting attorneys and circuit attorneys' retirement system fund.

41 [5.] 6. No state moneys shall be used to fund section 56.700 and sections 56.800 to
42 56.840 unless provided for by law.

84.570. 1. No person shall be appointed policeman or officer of police who shall have
2 been convicted of any offense, the punishment of which may be confinement in the state
3 penitentiary; nor shall any person be appointed who is not proven to be of good character, or who
4 is not proven to be a bona fide citizen [and resident of such city for a period of at least one year
5 and a citizen] of the United States, or who cannot read and write the English language and who
6 does not possess ordinary physical strength and courage, nor shall any person be originally
7 appointed to said police force who is less than twenty-one years of age[]; provided, however, that
8 the board of police commissioners may, upon recommendation of the chief, waive the
9 requirement of residency in the appointment of any policeman or officer of police for the period
10 during which such appointee shall be on probationary status; provided, however, that on
11 completion of the probationary period such policeman or officer of police becomes a bona fide
12 resident of such city]. **Notwithstanding any other provision of law, the board shall have the**
13 **sole authority to determine conditions of employment for police officers pursuant to section**
14 **84.460.**

15 2. The board shall from time to time require open competitive examinations or tests for
16 determining the qualifications and fitness of all applicants for appointment to positions on the
17 police force. Such examinations and tests shall be practical and shall relate to matters which
18 fairly measure the relative fitness of the candidates to discharge the duties of the positions to

19 which they seek to be appointed. Notice of such examinations and tests shall be given not less
20 than ten days in advance thereof by public advertisement in at least one newspaper of general
21 circulation in such city, and by posting notice in the police headquarters building. A list of those
22 qualifying in such examinations shall be established, listing those qualified in order of rank.
23 When an appointment is to be made, the appointment shall be made from such eligible list.

24 3. The board shall also establish rules for:

25 (1) Temporary employment for not exceeding sixty days in the absence of any eligible
26 list;

27 (2) Hours of work of police employees and officers subject to the provisions of section
28 84.510; and

29 (3) Attendance regulations and leaves of absence.

195.417. 1. No person shall deliver in any single over-the-counter sale more than
2 [three]:

3 (1) **Two packages or any number of packages that contain a combined total of no**
4 **more than six grams,** of any [methamphetamine precursor drug or any combination of
5 methamphetamine precursor drugs] **drug containing a sole active ingredient of ephedrine,**
6 **pseudoephedrine, phenylpropanolamine, or any of their salts, optical isomers, or salts of**
7 **optical isomers; or**

8 (2) **Three packages of any combination drug containing, as one of its active**
9 **ingredients, ephedrine, pseudoephedrine, phenylpropanolamine, or any of their salts,**
10 **optical isomers, or salts of optical isomers, or any number of packages of said combination**
11 **drug that contain a combined total of no more than nine grams of ephedrine,**
12 **pseudoephedrine, phenylpropanolamine, or any of their salts, optical isomers, or salts of**
13 **optical isomers.**

14 2. **All packages of any drug having a sole active ingredient of ephedrine,**
15 **pseudoephedrine, phenylpropanolamine, or any of their salts, optical isomers, or salts of**
16 **optical isomers, shall be displayed and offered for sale only behind a checkout counter**
17 **where the public is not permitted, or within six feet and an unobstructed view of a register**
18 **located on an attended checkout counter. This subsection shall not apply to any retailer**
19 **utilizing an electronic anti-theft system that utilizes a product tag and detection alarm**
20 **which specifically prevents the theft of such drugs from the place of business where such**
21 **drugs are sold.**

22 3. **This section shall supersede any municipal ordinances or regulations to the**
23 **extent that such ordinances or regulations are more restrictive than the provisions of this**
24 **section.** This section shall not apply to any product labeled pursuant to federal regulation for use
25 only in children under twelve years of age, or to any products that the state department of health

26 and senior services, upon application of a manufacturer, exempts by rule from this section
27 because the product has been formulated in such a way as to effectively prevent the conversion
28 of the active ingredient into methamphetamine, or its salts or precursors **or to the sale of any**
29 **animal feed products containing ephedrine or any naturally occurring or herbal ephedra**
30 **or extract of ephedra.**

31 [3.] 4. Any person who is considered the general owner or operator of the outlet where
32 ephedrine, pseudoephedrine, or phenylpropanolamine products are available for sale who
33 violates subsection 1 of this section shall not be penalized pursuant to this section if such person
34 documents that an employee training program was in place to provide the employee with
35 information on the state and federal regulations regarding ephedrine, pseudoephedrine, or
36 phenylpropanolamine.

37 [4.] 5. Any person who knowingly or recklessly violates this section is guilty of a class
38 A misdemeanor.

217.105. 1. As used in this section, the following terms mean:

2 (1) "Director", the director of the Missouri department of corrections or his or her
3 designated agent or representative;

4 (2) "Corrections officer", a corrections officer of the state or any political
5 subdivision of the state;

6 (3) "COCC", corrections officer certification commission.

7 2. There is hereby established within the department of corrections a "Corrections
8 Officer Certification Commission" which shall be composed of nine members nominated
9 by the director and appointed by the governor with the advice and consent of the senate:

10 (1) Three members shall be department of corrections officers below the rank of
11 lieutenant; of which, at least two will be members of a statewide association of corrections
12 officers with more than one thousand members;

13 (2) Three members shall be corrections officers or supervisors above the rank of
14 sergeant; two of which must be the rank of lieutenant or captain. Of these three, at least
15 one will be a member of a statewide association of corrections officers with more than one
16 thousand members;

17 (3) Two members shall be county sheriffs, at least one of whom shall be from a
18 third class county; and

19 (4) One member shall represent the general public.

20 3. Each member shall be at the time of appointment a citizen of the United States
21 and a resident of this state for a period of at least one year.

22 4. The original members of the commission shall be appointed as follows:

23 (1) Three for terms of one year;

24 **(2) Three for terms of two years; and**

25 **(3) Three for terms of three years.**

26 **Thereafter, all terms of membership on the commission shall be for three years or until a**
27 **successor is appointed.**

28 **5. The director may remove any member of the commission for misconduct or**
29 **neglect of office. Any member of the commission may be removed for cause by the director**
30 **but such member shall first be presented with a written statement of the reasons thereof.**

31 **6. Any vacancy in the membership of the commission shall be filled by appointment**
32 **for the unexpired term.**

33 **7. Annually the director shall appoint one of the members as chairperson. The**
34 **commission shall meet to perform its duties at least once each year as determined by the**
35 **director or a majority of the members. A majority of the members of the commission shall**
36 **constitute a quorum.**

37 **8. No member of the commission shall receive any compensation for the**
38 **performance of official duties but the members shall be reimbursed for their necessary**
39 **expenses.**

40 **9. The commission may:**

41 **(1) Cause a job task analysis to be made of the jobs of corrections officers pursuant**
42 **to this chapter; jailers pursuant to chapter 221, RSMo; jailers in charter counties and**
43 **private jail custody staff;**

44 **(2) Make recommendations to the department of corrections, the legislature, or the**
45 **governor concerning the qualifications, training, testing, and certification of corrections**
46 **officers, jailers and private jail custody staff;**

47 **(3) Recommend qualifications and training standards for corrections officers**
48 **pursuant to this chapter, jailers pursuant to chapter 221, RSMo, and jailers in charter**
49 **counties.**

50 **10. The director may establish various classes of corrections officers certification.**

51 **11. The name, certification status, and employing corrections agency of any of the**
52 **applicants or individuals certified pursuant to this chapter shall be open record. All other**
53 **records retained by the director pertaining to any applicant or certified officer shall be**
54 **confidential and shall not be disclosed to the public or any member of the public, except**
55 **with the written consent of the person or entity whose records are involved, provided,**
56 **however, that the director may disclose such information in the course of interstate**
57 **exchange of information, during the course of litigation involving the director or to other**
58 **state agencies. No closed record conveyed to the director pursuant to this chapter shall lose**
59 **its status as a closed record solely because it is retained by the director. Nothing in this**

60 **chapter shall be used to compel the director to disclose any record subject to attorney-**
61 **client privilege or work-product privilege.**

217.305. 1. The sheriff or other officer charged with the delivery of persons committed
2 to the department for confinement in a correctional center shall deliver the person to the
3 reception and diagnostic center designated by the director at times and dates as designated by the
4 director and shall receive a certificate of delivery of the offender from the center.

5 2. Appropriate information relating to the offender shall be provided to the department
6 in a written or electronic format, at or before the time the offender is delivered to the department,
7 including, but not limited to:

8 (1) A **certified** copy of the sentence [received] from the clerk of the sentencing court[.
9 If provided in written form, this document shall be certified by the court] **on the standardized**
10 **form developed by the office of state courts administrator. Such form shall include**
11 **specifics on any status violated, court-ordered probation not supervised by the department,**
12 **the offense cycle number and any court-ordered restitution owed to the victim;**

13 (2) [All other judgment, sentencing and commitment orders of the court, or such
14 documents as authorized by the prosecuting attorney or circuit attorney or required by the
15 department;

16 (3) Further] **Available information provided in writing by the prosecutor** regarding
17 the offender's age, crime for which sentenced [and], **probable cause statement**, circumstances
18 surrounding the crime and sentence, **names, telephone numbers, and last know address of**
19 **victims, victim impact statements, and** personal history, which may include facts related to
20 [his] **the offender's** home environment, **or** work habits, **gang affiliations, if any,** and previous
21 convictions and commitments. Such information shall be prepared by the prosecuting attorney
22 of the county or circuit attorney of any city not within a county who was charged with the
23 offender's prosecution;

24 (3) **Information provided by the sheriff or other officer charged with the delivery**
25 **of persons committed to the department regarding the offender's physical and mental**
26 **health while in jail. All records on medication, care, and treatment provided to the**
27 **offender while in jail shall be provided to the department prior to or upon delivery of the**
28 **offender. If the offender has had no physical or mental health care or medications while**
29 **in jail, the sheriff or other officer shall certify that no physical or mental health care or**
30 **medication records are available. The sheriff shall provide certification of all applicable**
31 **jail-time credit.**

32 3. The department may refuse to accept any offender who is delivered for
33 confinement without all required information.

217.343. **Offenders who are younger than seventeen years of age and have been**

2 **adjudicated as an adult shall be emancipated for the purpose of decision-making and**
3 **participation in all department programs and services, including but not limited to,**
4 **medical care, mental health care, treatment programs, educational programs, work**
5 **assignments, and rehabilitative programs.**

6 217.362. 1. The department of corrections shall design and implement an intensive
7 long-term program for the treatment of chronic nonviolent offenders with serious substance
8 abuse addictions who have not pleaded guilty to or been convicted of a dangerous felony as
9 defined in section 556.061, RSMo.

10 2. Prior to sentencing, any judge considering an offender for this program shall notify
11 the department. The potential candidate for the program shall be screened by the department to
12 determine eligibility. The department shall, by regulation, establish eligibility criteria and inform
13 the court of such criteria. The department shall notify the court as to the offender's eligibility and
14 the availability of space in the program. Notwithstanding any other provision of law to the
15 contrary, except as provided for in section 558.019, RSMo, if an offender is eligible and there
16 is adequate space, the court may sentence a person to the program which shall consist of
17 institutional drug **or alcohol** treatment for a period of **at least twelve and no more than**
18 **twenty-four months, as well as a term of incarceration. The department shall determine the**
19 **nature, intensity, duration, and completion criteria of the education, treatment, and**
20 **aftercare portions of any program services provided.** Execution of the offender's term of
21 incarceration shall be suspended pending completion of said program. Allocation of space in the
22 program may be distributed by the department in proportion to drug arrest patterns in the state.
23 If the court is advised that an offender is not eligible or that there is no space available, the court
24 shall consider other authorized dispositions.

25 3. [Notwithstanding any other provision of the law to the contrary, upon successful
26 completion of the program, the board of probation and parole may advise the sentencing court
27 of the eligibility of the individual for probation. The original sentencing court shall hold a
28 hearing to make a determination as to the fitness of the offender to be placed on probation. The
29 court shall follow the recommendation of the board unless the court makes a determination that
30 such a placement would be an abuse of discretion. If an offender successfully completes the
31 program before the end of the twenty-four-month period, the department may petition the court
32 and request that probation be granted immediately.] **Upon successful completion of the**
33 **program, the board of probation and parole shall advise the sentencing court of an**
34 **offender's probationary release date thirty days prior to release. If the court determines**
35 **that probation is not appropriate the court may order the execution of the offender's**
36 **sentence.**

37 4. If it is determined by the department that the offender has not successfully completed

38 the program, or that the offender is not cooperatively participating in the program, the offender
39 shall be removed from the program and the court shall be advised. Failure of an offender to
40 complete the program shall cause the offender to serve the sentence prescribed by the court and
41 void the right to be considered for probation on this sentence.

42 **5. An offender's first incarceration in a department of corrections program**
43 **pursuant to this section prior to release on probation shall not be considered a previous**
44 **prison commitment for the purpose of determining a minimum prison term pursuant to**
45 **the provisions of section 558.019, RSMo.**

217.380. 1. When an offender is found guilty of a violation of a correctional facility rule
2 or convicted of a felony or misdemeanor, a record of such violation or conviction shall be
3 recorded in the offender's file and in a central record. The record shall clearly state the offense,
4 the reporting officer's name, when and where the violation or offense was committed and the
5 action taken by any disciplinary body or other personnel of the department.

6 2. An offender who has violated any published rule or regulation of the division or
7 correctional facility relating to the conduct of offenders may, after proper hearing and upon order
8 of the chief administrative officer or his **or her** designee of the correctional facility, be confined
9 in a disciplinary segregation unit for a period not to exceed thirty days. Disciplinary segregation
10 of more than ten days may only be given for serious conduct violations as defined by rule or
11 regulation of the division.

12 **3. Violation hearings under the provision of subsection 2 of this section are not**
13 **contested cases under the provisions of chapter 536, RSMo. Violation hearings under the**
14 **provisions of subsection 2 of this section are not subject to the rules of evidence. The**
15 **department may promulgate rules for violation hearings under the authority of subsection**
16 **2 of section 217.040. The conduct of and order from a violation hearing under the**
17 **provisions of subsection 2 are final and unappealable.**

217.750. 1. At the request of a judge of any circuit court, the board shall provide
2 probation services for such court as provided in subsection 2 of this section.

3 2. The board shall provide probation services for any person convicted of any class of
4 felony. The board shall not [be required to] provide probation services for any class of
5 misdemeanor except those class A misdemeanors the basis of which is contained in chapters
6 565[,] **and** 566 [and 570], RSMo, or in section 568.050, RSMo, 455.085, RSMo, or section
7 455.538, RSMo. [The board may in its discretion accept other persons for supervision who have
8 been convicted of driving while intoxicated under the provisions of section 577.023, RSMo.]

217.760. 1. In all felony cases and class A misdemeanor cases, the basis of which
2 misdemeanor cases are contained in chapters 565[,] **and** 566, [and 570,] RSMo, and section
3 577.023, RSMo, at the request of a circuit judge of any circuit court, the board shall assign one

4 or more state probation and parole officers to make an investigation of the person convicted of
5 the crime or offense before sentence is imposed. **In all felony cases in which the**
6 **recommended sentence established by the sentencing advisory commission pursuant to**
7 **subsection 6 of section 558.019, RSMo, includes probation but the recommendation of the**
8 **prosecuting attorney or circuit attorney does not include probation, the board of probation**
9 **and parole shall, prior to sentencing, provide the judge with a report on available**
10 **alternatives to incarceration. If a presentence investigation report is completed then the**
11 **available alternatives shall be included in the presentence investigation report.**

12 2. The report of the presentence investigation or preparole investigation shall contain any
13 prior criminal record of the defendant and such information about his **or her** characteristics, his
14 **or her** financial condition, his **or her** social history [and], the circumstances affecting his **or her**
15 behavior as may be helpful in imposing sentence or in granting probation or in the correctional
16 treatment of the defendant, **information concerning the impact of the crime upon the victim,**
17 **the recommended sentence established by the sentencing advisory commission and**
18 **available alternatives to incarceration including opportunities for restorative justice,** as
19 well as a recommendation by the probation and parole officer. The officer shall secure such
20 other information as may be required by the court and, whenever it is practicable and needed,
21 such investigation shall include a physical and mental examination of the defendant.

478.610. 1. There shall be three circuit judges in the thirteenth judicial circuit consisting
2 of the counties of Boone and Callaway. These judges shall sit in divisions numbered one, two
3 and three. **Beginning on January 1, 2007, there shall be four circuit judges in the thirteenth**
4 **judicial circuit and these judges shall sit in divisions numbered one, two, three, and four.**

5 2. The circuit judge in division two shall be elected in 1980. The circuit judges in
6 divisions one and three shall be elected in 1982. **The circuit judge in division four shall be**
7 **elected in 2006 for a two-year term and thereafter in 2008 for a full six-year term.**

8 3. The authority for a majority of judges of the thirteenth judicial circuit to appoint or
9 retain a commissioner pursuant to section 478.003 shall expire August 28, 2001. As of such
10 date, there shall be one additional associate circuit judge position in Boone County than is
11 provided pursuant to section 478.320.

488.026. As provided by section 56.807, RSMo, there shall be assessed and collected
2 **a surcharge of six dollars in all criminal cases filed in the courts of this state, including**
3 **violations of any county ordinance or any violation of criminal or traffic laws of this state,**
4 **including infractions, but no such surcharge shall be assessed when the costs are waived**
5 **or are to be paid by the state, county, or municipality or when a criminal proceeding or the**
6 **defendant has been dismissed by the court or against any person who has pled guilty and**
7 **paid their fine pursuant to subsection 4 of section 476.385, RSMo. For purposes of this**

8 section, the term "county ordinance" shall include any ordinance of the City of St. Louis.
9 The clerk responsible for collecting court costs in criminal cases shall collect and disburse
10 such amounts as provided by sections 488.010 to 488.020. Such funds shall be payable to
11 the prosecuting attorneys and circuit attorneys' retirement fund.

488.5026. 1. Upon approval of the governing body of a city, county, or a city not
2 within a county, a surcharge of two dollars shall be assessed as costs in each court
3 proceeding filed in any court in any city, county, or city not within a county adopting such
4 a surcharge, in all criminal cases including violations of any county ordinance or any
5 violation of criminal or traffic laws of the state, including an infraction and violation of a
6 municipal ordinance; except that no such fee shall be collected in any proceeding in any
7 court when the proceeding or the defendant has been dismissed by the court or when costs
8 are to be paid by the state, county, or municipality. A surcharge of two dollars shall be
9 assessed as costs in a juvenile court proceeding in which a child is found by the court to
10 come within the applicable provisions of subdivision (3) of subsection 1 of section 211.031,
11 RSMo.

12 2. Notwithstanding any other provision of law, the moneys collected by clerks of
13 the courts pursuant to the provisions of subsection 1 of this section shall be collected and
14 disbursed in accordance with sections 488.010 to 488.020, and shall be payable to the
15 treasurer of the governmental unit authorizing such surcharge.

16 3. The treasurer shall deposit funds generated by the surcharge into the "Inmate
17 Security Fund". Funds deposited shall be utilized to develop biometric identification
18 systems to insure that inmates can be properly identified and tracked within the local jail
19 system.

513.653. 1. Law enforcement agencies involved in using the federal forfeiture system
2 under federal law shall be required at the end of their respective fiscal year to acquire an
3 independent audit of the federal seizures and the proceeds received therefrom and provide this
4 audit to their respective governing body **and to the department of public safety**. A copy of
5 such audit shall be provided to the state auditor's office. This audit shall be paid for out of the
6 proceeds of such federal forfeitures. **The department of public safety shall not issue funds
7 to any law enforcement agency that fails to comply with the provisions of this section.**

8 2. Intentional or knowing failure to comply with the audit requirement contained in this
9 section shall be a class A misdemeanor, punishable by a fine of up to one thousand dollars.

556.061. In this code, unless the context requires a different definition, the following
2 shall apply:

- 3 (1) "Affirmative defense" has the meaning specified in section 556.056;
4 (2) "Burden of injecting the issue" has the meaning specified in section 556.051;

5 (3) "Commercial film and photographic print processor", any person who develops
6 exposed photographic film into negatives, slides or prints, or who makes prints from negatives
7 or slides, for compensation. The term commercial film and photographic print processor shall
8 include all employees of such persons but shall not include a person who develops film or makes
9 prints for a public agency;

10 (4) "Confinement":

11 (a) A person is in confinement when such person is held in a place of confinement
12 pursuant to arrest or order of a court, and remains in confinement until:

13 a. A court orders the person's release; or

14 b. The person is released on bail, bond, or recognizance, personal or otherwise; or

15 c. A public servant having the legal power and duty to confine the person authorizes his
16 release without guard and without condition that he return to confinement;

17 (b) A person is not in confinement if:

18 a. The person is on probation or parole, temporary or otherwise; or

19 b. The person is under sentence to serve a term of confinement which is not continuous,
20 or is serving a sentence under a work-release program, and in either such case is not being held
21 in a place of confinement or is not being held under guard by a person having the legal power
22 and duty to transport the person to or from a place of confinement;

23 (5) "Consent": consent or lack of consent may be expressed or implied. Assent does not
24 constitute consent if:

25 (a) It is given by a person who lacks the mental capacity to authorize the conduct charged
26 to constitute the offense and such mental incapacity is manifest or known to the actor; or

27 (b) It is given by a person who by reason of youth, mental disease or defect, or
28 intoxication, is manifestly unable or known by the actor to be unable to make a reasonable
29 judgment as to the nature or harmfulness of the conduct charged to constitute the offense; or

30 (c) It is induced by force, duress or deception;

31 (6) "Criminal negligence" has the meaning specified in section 562.016, RSMo;

32 (7) "Custody", a person is in custody when the person has been arrested but has not been
33 delivered to a place of confinement;

34 (8) "Dangerous felony" means the felonies of arson in the first degree, assault in the first
35 degree, attempted forcible rape if physical injury results, attempted forcible sodomy if physical
36 injury results, forcible rape, forcible sodomy, kidnaping, murder in the second degree, **assault**
37 **of a law enforcement officer in the first degree, domestic assault in the first degree, elder**
38 **abuse in the first degree, [and], robbery in the first degree, statutory rape in the first degree**
39 **when the victim is a child less than twelve years of age at the time of the commission of the**
40 **act giving rise to the offense, statutory sodomy in the first degree when the victim is a child**

41 **less than twelve years of age at the time of the commission of the act giving rise to the**
42 **offense, and abuse of a child pursuant to subdivision (2) of subsection 3 of section 568.060,**
43 **RSMo;**

44 (9) "Dangerous instrument" means any instrument, article or substance, which, under the
45 circumstances in which it is used, is readily capable of causing death or other serious physical
46 injury;

47 (10) "Deadly weapon" means any firearm, loaded or unloaded, or any weapon from
48 which a shot, readily capable of producing death or serious physical injury, may be discharged,
49 or a switchblade knife, dagger, billy, blackjack or metal knuckles;

50 (11) "Felony" has the meaning specified in section 556.016;

51 (12) "Forcible compulsion" means either:

52 (a) Physical force that overcomes reasonable resistance; or

53 (b) A threat, express or implied, that places a person in reasonable fear of death, serious
54 physical injury or kidnapping of such person or another person;

55 (13) "Incapacitated" means that physical or mental condition, temporary or permanent,
56 in which a person is unconscious, unable to appraise the nature of such person's conduct, or
57 unable to communicate unwillingness to an act. A person is not incapacitated with respect to an
58 act committed upon such person if he or she became unconscious, unable to appraise the nature
59 of such person's conduct or unable to communicate unwillingness to an act, after consenting to
60 the act;

61 (14) "Infraction" has the meaning specified in section 556.021;

62 (15) "Inhabitable structure" has the meaning specified in section 569.010, RSMo;

63 (16) "Knowingly" has the meaning specified in section 562.016, RSMo;

64 (17) "Law enforcement officer" means any public servant having both the power and
65 duty to make arrests for violations of the laws of this state, and federal law enforcement officers
66 authorized to carry firearms and to make arrests for violations of the laws of the United States;

67 (18) "Misdemeanor" has the meaning specified in section 556.016;

68 (19) "Offense" means any felony, misdemeanor or infraction;

69 (20) "Physical injury" means physical pain, illness, or any impairment of physical
70 condition;

71 (21) "Place of confinement" means any building or facility and the grounds thereof
72 wherein a court is legally authorized to order that a person charged with or convicted of a crime
73 be held;

74 (22) "Possess" or "possessed" means having actual or constructive possession of an
75 object with knowledge of its presence. A person has actual possession if such person has the
76 object on his or her person or within easy reach and convenient control. A person has

77 constructive possession if such person has the power and the intention at a given time to exercise
78 dominion or control over the object either directly or through another person or persons.
79 Possession may also be sole or joint. If one person alone has possession of an object, possession
80 is sole. If two or more persons share possession of an object, possession is joint;

81 (23) "Public servant" means any person employed in any way by a government of this
82 state who is compensated by the government by reason of such person's employment, any person
83 appointed to a position with any government of this state, or any person elected to a position with
84 any government of this state. It includes, but is not limited to, legislators, jurors, members of the
85 judiciary and law enforcement officers. It does not include witnesses;

86 (24) "Purposely" has the meaning specified in section 562.016, RSMo;

87 (25) "Recklessly" has the meaning specified in section 562.016, RSMo;

88 (26) "Ritual" or "ceremony" means an act or series of acts performed by two or more
89 persons as part of an established or prescribed pattern of activity;

90 (27) "Serious emotional injury", an injury that creates a substantial risk of temporary or
91 permanent medical or psychological damage, manifested by impairment of a behavioral,
92 cognitive or physical condition. Serious emotional injury shall be established by testimony of
93 qualified experts upon the reasonable expectation of probable harm to a reasonable degree of
94 medical or psychological certainty;

95 (28) "Serious physical injury" means physical injury that creates a substantial risk of
96 death or that causes serious disfigurement or protracted loss or impairment of the function of any
97 part of the body;

98 (29) "Sexual conduct" means acts of human masturbation; deviate sexual intercourse;
99 sexual intercourse; or physical contact with a person's clothed or unclothed genitals, pubic area,
100 buttocks, or the breast of a female in an act of apparent sexual stimulation or gratification;

101 (30) "Sexual contact" means any touching of the genitals or anus of any person, or the
102 breast of any female person, or any such touching through the clothing, for the purpose of
103 arousing or gratifying sexual desire of any person;

104 (31) "Sexual performance", any performance, or part thereof, which includes sexual
105 conduct by a child who is less than seventeen years of age;

106 (32) "Voluntary act" has the meaning specified in section 562.011, RSMo.

557.036. 1. [Subject to the limitation provided in subsection 3 of this section,] Upon a
2 finding of guilt upon verdict or plea, the court shall decide the extent or duration of sentence or
3 other disposition to be imposed under all the circumstances, having regard to the nature and
4 circumstances of the offense and the history and character of the defendant and render judgment
5 accordingly.

6 2. [The court shall instruct the jury as to the range of punishment authorized by statute

7 and upon a finding of guilt to assess and declare the punishment as a part of their verdict, unless:]
8 **Where an offense is submitted to the jury, the trial shall proceed in two stages. At the first**
9 **stage, the jury shall decide only whether the defendant is guilty or not guilty of any**
10 **submitted offense. The issue of punishment shall not be submitted to the jury at the first**
11 **stage.**

12 **3. If the jury at the first stage of a trial finds the defendant guilty of the submitted**
13 **offense, the second stage of the trial shall proceed. The issue at the second stage of the trial**
14 **shall be the punishment to be assessed and declared. Evidence supporting or mitigating**
15 **punishment may be presented. Such evidence may include, within the discretion of the**
16 **court, evidence concerning the impact of the crime upon the victim, the victim's family and**
17 **others, the nature and circumstances of the offense, and the history and character of the**
18 **defendant. Rebuttal and surrebuttal evidence may be presented. The state shall be the**
19 **first to proceed. The court shall instruct the jury as to the range of punishment authorized**
20 **by statute for each submitted offense. The attorneys may argue the issue of punishment**
21 **to the jury, and the state shall have the right to open and close the argument. The jury**
22 **shall assess and declare the punishment as authorized by statute.**

23 **4. A second stage of the trial shall not proceed and the court, and not the jury, shall**
24 **assess punishment if:**

25 (1) The defendant requests in writing, prior to voir dire, that the court assess the
26 punishment in case of a finding of guilt; or

27 (2) The state pleads and proves the defendant is a prior offender, persistent offender,
28 dangerous offender, or persistent misdemeanor offender as defined in section 558.016, RSMo,
29 a persistent sexual offender as defined in section 558.018, RSMo, or a predatory sexual offender
30 as defined in section 558.018, RSMo.

31
32 If the jury [finds the defendant guilty but] cannot agree on the punishment to be assessed, the
33 court shall proceed as provided in subsection 1 of this section. If [there be a trial by jury and the
34 jury is to assess punishment and if], after due deliberation by the jury, the court finds the jury
35 cannot agree on punishment, then the court may instruct the jury that if it cannot agree on
36 punishment that [it may return its verdict without assessing punishment and] the court will assess
37 punishment.

38 [3.] **5. If the jury returns a verdict of guilty in the first stage and declares a term of**
39 **imprisonment [as provided in subsection 2 of this section] in the second stage, the court shall**
40 **proceed as provided in subsection 1 of this section except that any term of imprisonment**
41 **imposed cannot exceed the term declared by the jury unless the term declared by the jury is less**
42 **than the authorized lowest term for the offense, in which event the court cannot impose a term**

43 of imprisonment greater than the lowest term provided for the offense.

44 [4.] 6. If the defendant is found to be a prior offender, persistent offender, dangerous
45 offender or persistent misdemeanor offender as defined in section 558.016, RSMo:

46 (1) If he has been found guilty of an offense, the court shall proceed as provided in
47 section 558.016, RSMo; or

48 (2) If he has been found guilty of a class A felony, the court may impose any sentence
49 authorized for the class A felony.

50 [5.] 7. The court shall not seek an advisory verdict from the jury in cases of prior
51 offenders, persistent offenders, dangerous offenders, persistent sexual offenders or predatory
52 sexual offenders; if an advisory verdict is rendered, the court shall not deem it advisory, but shall
53 consider it as mere surplusage.

558.011. 1. The authorized terms of imprisonment, including both prison and
2 conditional release terms, are:

3 (1) For a class A felony, a term of years not less than ten years and not to exceed thirty
4 years, or life imprisonment;

5 (2) For a class B felony, a term of years not less than five years and not to exceed fifteen
6 years;

7 (3) For a class C felony, a term of years not to exceed seven years;

8 (4) For a class D felony, a term of years not to exceed five years;

9 (5) For a class A misdemeanor, a term not to exceed one year;

10 (6) For a class B misdemeanor, a term not to exceed six months;

11 (7) For a class C misdemeanor, a term not to exceed fifteen days.

12 2. In cases of class C and D felonies, the court shall have discretion to imprison for a
13 special term not to exceed one year in the county jail or other authorized penal institution, and
14 the place of confinement shall be fixed by the court. If the court imposes a sentence of
15 imprisonment for a term longer than one year upon a person convicted of a class C or D felony,
16 it shall commit the person to the custody of the department of corrections for a term of years not
17 less than two years and not exceeding the maximum authorized terms provided in subdivisions
18 (3) and (4) of subsection 1 of this section.

19 3. (1) When a regular sentence of imprisonment for a felony is imposed, the court shall
20 commit the [defendant] **person** to the custody of the department of corrections for the term
21 imposed under section 557.036, RSMo, or until released under procedures established elsewhere
22 by law.

23 (2) A sentence of imprisonment for a misdemeanor shall be for a definite term and the
24 court shall commit the [defendant] **person** to the county jail or other authorized penal institution
25 for the term of his **or her** sentence or until released under procedure established elsewhere by

26 law.

27 4. (1) A sentence of imprisonment for a term of years for felonies other than dangerous
28 felonies as defined in section 556.061, RSMo, and other than sentences of imprisonment which
29 involve the individual's fourth or subsequent remand to the department of corrections shall
30 consist of a prison term and a conditional release term. The conditional release term of any term
31 imposed under section 557.036, RSMo, shall be:

32 (a) One-third for terms of nine years or less;

33 (b) Three years for terms between nine and fifteen years;

34 (c) Five years for terms more than fifteen years; and the prison term shall be the
35 remainder of such term. The prison term may be extended by the board of probation and parole
36 pursuant to subsection 5 of this section.

37 (2) "Conditional release" means the conditional discharge of an offender by the board
38 of probation and parole, subject to conditions of release that the board deems reasonable to assist
39 the offender to lead a law-abiding life, and subject to the supervision under the state board of
40 probation and parole. The conditions of release shall include avoidance by the offender of any
41 other crime, federal or state, and other conditions that the board in its discretion deems
42 reasonably necessary to assist the releasee in avoiding further violation of the law.

43 5. The date of conditional release from the prison term may be extended up to a
44 maximum of the entire sentence of imprisonment by the board of probation and parole. The
45 director of any division of the department of corrections except the board of probation and parole
46 may file with the board of probation and parole a petition to extend the conditional release date
47 when an offender fails to follow the rules and regulations of the division or commits an act in
48 violation of such rules. Within ten working days of receipt of the petition to extend the
49 conditional release date, the board of probation and parole shall convene a hearing on the
50 petition. The offender shall be present and may call witnesses in his **or her** behalf and
51 cross-examine witnesses appearing against **[him] the offender**. The hearing shall be conducted
52 as provided in section 217.670, RSMo. If the violation occurs in close proximity to the
53 conditional release date, the conditional release may be held for a maximum of fifteen working
54 days to permit necessary time for the division director to file a petition for an extension with the
55 board and for the board to conduct a hearing, provided some affirmative manifestation of an
56 intent to extend the conditional release has occurred prior to the conditional release date. If at
57 the end of a fifteen-working-day period a board decision has not been reached, the offender shall
58 be released conditionally. The decision of the board shall be final.

558.016. 1. The court may sentence a person who has pleaded guilty to or has been
2 found guilty of an offense to a term of imprisonment as authorized by section 558.011 or to a
3 term of imprisonment authorized by a statute governing the offense, if it finds the defendant is

4 a prior offender or a persistent misdemeanor offender, or to an extended term of imprisonment
5 if it finds the defendant is a persistent offender or a dangerous offender.

6 2. A "prior offender" is one who has pleaded guilty to or has been found guilty of one
7 felony.

8 3. A "persistent offender" is one who has pleaded guilty to or has been found guilty of
9 two or more felonies committed at different times.

10 4. A "dangerous offender" is one who:

11 (1) Is being sentenced for a felony during the commission of which he knowingly
12 murdered or endangered or threatened the life of another person or knowingly inflicted or
13 attempted or threatened to inflict serious physical injury on another person; and

14 (2) Has pleaded guilty to or has been found guilty of a class A or B felony or a dangerous
15 felony.

16 5. A "persistent misdemeanor offender" is one who has pleaded guilty to or has been
17 found guilty of two or more class A or B misdemeanors, committed at different times, which are
18 defined as offenses under chapters 195, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575,
19 and 576, RSMo.

20 6. The pleas or findings of guilty shall be prior to the date of commission of the present
21 offense.

22 7. The total authorized maximum terms of imprisonment for a persistent offender or a
23 dangerous offender are:

24 (1) For a class A felony, any sentence authorized for a class A felony;

25 (2) For a class B felony, a term of years not to exceed thirty years;

26 (3) For a class C felony, a term of years not to exceed twenty years;

27 (4) For a class D felony, a term of years not to exceed ten years.

28 **8. An offender convicted of a nonviolent class C or class D felony with no prior**
29 **prison commitments, after serving one hundred twenty days of his or her sentence, may,**
30 **in writing, petition the court to serve the remainder of his or her sentence on probation,**
31 **parole, or other court-approved alternative sentence. No hearing shall be conducted unless**
32 **the court deems it necessary. Upon the offender petitioning the court, the department of**
33 **corrections shall submit a report to the sentencing court which evaluates the conduct of the**
34 **offender while in custody, alternative custodial methods available to the offender, and shall**
35 **recommend whether the offender be released or remain in custody. If the report issued by**
36 **the department is favorable and recommends probation, parole, or other alternative**
37 **sentence, the court shall follow the recommendations of the department if the court deems**
38 **it appropriate. Any placement of an offender pursuant to section 559.115, RSMo, shall be**
39 **excluded from the provisions of this subsection.**

558.019. 1. This section shall not be construed to affect the powers of the governor under article IV, section 7, of the Missouri Constitution. This statute shall not affect those provisions of section 565.020, RSMo, section 558.018 or section 571.015, RSMo, which set minimum terms of sentences, or the provisions of section 559.115, RSMo, relating to probation.

2. The provisions of **subsections 2 to 5** of this section shall be applicable to all classes of felonies except those set forth in chapter 195, RSMo, and those otherwise excluded in subsection 1 of this section. For the purposes of this section, "prison commitment" means and is the receipt by the department of corrections of a [defendant] **offender** after sentencing. For purposes of this section, prior prison commitments to the department of corrections shall not include commitment to a regimented discipline program established pursuant to section 217.378, RSMo. Other provisions of the law to the contrary notwithstanding, any [defendant] **offender** who has pleaded guilty to or has been found guilty of a felony other than a dangerous felony as defined in section 556.061, RSMo, and is committed to the department of corrections shall be required to serve the following minimum prison terms:

(1) If the [defendant] **offender** has one previous prison commitment to the department of corrections for a felony offense, the minimum prison term which the [defendant] **offender** must serve shall be forty percent of his **or her** sentence or until the [defendant] **offender** attains seventy years of age, and has served at least [forty] **thirty** percent of the sentence imposed, whichever occurs first;

(2) If the [defendant] **offender** has two previous prison commitments to the department of corrections for felonies unrelated to the present offense, the minimum prison term which the [defendant] **offender** must serve shall be fifty percent of his **or her** sentence or until the [defendant] **offender** attains seventy years of age, and has served at least forty percent of the sentence imposed, whichever occurs first;

(3) If the [defendant] **offender** has three or more previous prison commitments to the department of corrections for felonies unrelated to the present offense, the minimum prison term which the [defendant] **offender** must serve shall be eighty percent of his **or her** sentence or until the [defendant] **offender** attains seventy years of age, and has served at least forty percent of the sentence imposed, whichever occurs first.

3. Other provisions of the law to the contrary notwithstanding, any [defendant] **offender** who has pleaded guilty to or has been found guilty of a dangerous felony as defined in section 556.061, RSMo, and is committed to the department of corrections shall be required to serve a minimum prison term of eighty-five percent of the sentence imposed by the court or until the [defendant] **offender** attains seventy years of age, and has served at least forty percent of the sentence imposed, whichever occurs first.

4. For the purpose of determining the minimum prison term to be served, the following

37 calculations shall apply:

38 (1) A sentence of life shall be calculated to be thirty years;

39 (2) Any sentence either alone or in the aggregate with other consecutive sentences for
40 crimes committed at or near the same time which is over seventy-five years shall be calculated
41 to be seventy-five years.

42 5. For purposes of this section, the term "minimum prison term" shall mean time
43 required to be served by the [defendant] **offender** before he **or she** is eligible for parole,
44 conditional release or other early release by the department of corrections. Except that the board
45 of probation and parole, in the case of consecutive sentences imposed at the same time pursuant
46 to a course of conduct constituting a common scheme or plan, shall be authorized to convert
47 consecutive sentences to concurrent sentences, when the board finds, after hearing with notice
48 to the prosecuting or circuit attorney, that the sum of the terms results in an unreasonably
49 excessive total term, taking into consideration all factors related to the crime or crimes
50 committed and the sentences received by others similarly situated.

51 6. (1) A sentencing advisory commission is hereby created to consist of eleven
52 members. One member shall be appointed by the speaker of the house. One member shall be
53 appointed by the president pro tem of the senate. One member shall be the director of the
54 department of corrections. Six members shall be appointed by and serve at the pleasure of the
55 governor from among the following: the public defender commission; private citizens; a private
56 member of the Missouri Bar; the board of probation and parole; and a prosecutor. Two members
57 shall be appointed by the supreme court, one from a metropolitan area and one from a rural area.
58 **All members shall be appointed to a four-year term.** All members of the sentencing
59 commission appointed prior to August 28, 1994, shall continue to serve on the sentencing
60 advisory commission at the pleasure of the governor.

61 (2) The commission shall study sentencing practices in the circuit courts throughout the
62 state for the purpose of determining whether and to what extent disparities exist among the
63 various circuit courts with respect to the length of sentences imposed and the use of probation
64 for [defendants] **offenders** convicted of the same or similar crimes and with similar criminal
65 histories. The commission shall also study and examine whether and to what extent sentencing
66 disparity among economic and social classes exists in relation to the sentence of death and if so,
67 the reasons therefor **sentences are comparable to other states, if the length of the sentence**
68 **is appropriate, and the rate of rehabilitation based on sentence.** It shall compile statistics,
69 examine cases, draw conclusions, and perform other duties relevant to the research and
70 investigation of disparities in death penalty sentencing among economic and social classes.

71 (3) The commission shall establish a system of recommended sentences, within the
72 statutory minimum and maximum sentences provided by law for each felony committed under

73 the laws of this state. This system of recommended sentences shall be distributed to all
74 sentencing courts within the state of Missouri. The recommended sentence for each crime shall
75 take into account, but not be limited to, the following factors:

- 76 (a) The nature and severity of each offense;
- 77 (b) The record of prior offenses by the offender;
- 78 (c) The data gathered by the commission showing the duration and nature of sentences
79 imposed for each crime; and
- 80 (d) The resources of the department of corrections and other authorities to carry out the
81 punishments that are imposed.

82 (4) **The commission shall study alternative sentences, prison work programs, work**
83 **release, home-based incarceration, probation and parole options, and any other programs**
84 **and report the feasibility of these options in Missouri.**

85 (5) The commission shall publish and distribute its [system of recommended sentences]
86 **recommendations** on or before July 1, [1995] **2004**. The commission shall study the
87 implementation and use of the [system of recommended sentences] **recommendations** until July
88 1, [1998] **2005**, and return a [final] report to the governor, the speaker of the house of
89 representatives, and the president pro tem of the senate. Following the July 1, [1998] **2005**,
90 report, the commission [may] **shall** revise the recommended sentences every [three] **two** years.

91 [(5)] (6) The governor shall select a chairperson who shall call meetings of the
92 commission as required or permitted pursuant to the purpose of the sentencing commission.

93 [(6)] (7) The members of the commission shall not receive compensation for their duties
94 on the commission, but shall be reimbursed for actual and necessary expenses incurred in the
95 performance of these duties and for which they are not reimbursed by reason of their other paid
96 positions.

97 [(7)] (8) The circuit and associate circuit courts of this state, the office of the state courts
98 administrator, the department of public safety, and the department of corrections shall cooperate
99 with the commission by providing information or access to information needed by the
100 commission. The office of the state courts administrator will provide needed staffing resources.

101 7. **Courts shall retain discretion to lower or exceed the sentence recommended by**
102 **the commission as otherwise allowable by law, and to order restorative justice methods,**
103 **when applicable.**

104 8. **If the imposition or execution of a sentence is suspended, the court may order**
105 **any or all of the following restorative justice methods, or any other method that the court**
106 **finds just or appropriate:**

- 107 (1) **Restitution to any victim for costs incurred as a result of the offender's actions;**
- 108 (2) **Offender treatment programs;**

109 **(3) Mandatory community service;**

110 **(4) Work release programs in local facilities; and**

111 **(5) Community based residential and nonresidential programs.**

112 **9.** The provisions of this section shall apply only to offenses occurring on or after August
113 28, [1994] **2003.**

559.021. 1. The conditions of probation shall be such as the court in its discretion deems
2 reasonably necessary to ensure that the defendant will not again violate the law. When a
3 defendant is placed on probation he shall be given a certificate explicitly stating the conditions
4 on which he is being released.

5 2. In addition to such other authority as exists to order conditions of probation, the court
6 may order such conditions as the court believes will serve to compensate the victim, any
7 dependent of the victim, or society. Such conditions may include, but shall not be limited to:

8 (1) Restitution to the victim or any dependent of the victim, in an amount to be
9 determined by the judge; and

10 (2) The performance of a designated amount of free work for a public or charitable
11 purpose, or purposes, as determined by the judge.

12 **3. In addition to such other authority as exists to order conditions of probation, in**
13 **the case of a plea of guilty or a finding of guilt, the court may order the assessment and**
14 **payment of a designated amount of money to a county crime reduction fund established**
15 **by the county commission pursuant to section 50.565, RSMo. Such contribution shall not**
16 **exceed one thousand dollars for any charged offense. Any money deposited into the county**
17 **crime reduction fund pursuant to this section shall only be expended pursuant to the**
18 **provisions of section 50.565, RSMo. County crime reduction funds shall be audited as are**
19 **all other county funds.**

20 [3.] **4.** The defendant may refuse probation conditioned on the performance of free work.
21 If he does so, the court shall decide the extent or duration of sentence or other disposition to be
22 imposed and render judgment accordingly. Any county, city, person, organization, or agency,
23 or employee of a county, city, organization or agency charged with the supervision of such free
24 work or who benefits from its performance shall be immune from any suit by the defendant or
25 any person deriving a cause of action from him if such cause of action arises from such
26 supervision of performance, except for an intentional tort or gross negligence. The services
27 performed by the defendant shall not be deemed employment within the meaning of the
28 provisions of chapter 288, RSMo. A defendant performing services pursuant to this section shall
29 not be deemed an employee within the meaning of the provisions of chapter 287, RSMo.

30 [4.] **5.** The court may modify or enlarge the conditions of probation at any time prior to
31 the expiration or termination of the probation term.

32 **6. The defendant may refuse probation conditioned on a payment to a county crime**
33 **reduction fund. If he or she does so, the court shall decide the extent or duration of**
34 **sentence or other disposition to be imposed and render judgment accordingly. A judge**
35 **may order payment to a crime reduction fund only if such fund had been created prior to**
36 **sentencing by ordinance or resolution of a county of the state of Missouri. A judge shall**
37 **not have any direct supervisory authority or administrative control over any fund to which**
38 **the judge is ordering the probationers to make payments. A defendant who fails to make**
39 **a payment or payments to a county crime reduction fund may not have his probation**
40 **revoked solely for failing to make such payment unless the judge, after evidentiary hearing,**
41 **makes a finding supported by a preponderance of the evidence that the defendant either**
42 **willfully refused to make the payment or that the defendant willfully, intentionally, and**
43 **purposefully failed to make sufficient bona fide efforts to acquire the resources to pay.**

 559.026. Except in infraction cases, when probation is granted, the court, in addition to
2 conditions imposed [under] **pursuant to** section 559.021, may require as a condition of
3 probation that the [defendant] **offender** submit to a period of detention **up to forty-eight hours**
4 **after the determination by a probation or parole officer that the offender violated a**
5 **condition of continued probation or parole** in an appropriate institution at whatever time or
6 intervals within the period of probation, consecutive or nonconsecutive, the court shall designate,
7 **or the board of probation and parole shall direct.** Any person placed on probation in a county
8 of the first class or second class or in any city with a population of five hundred thousand or
9 more and detained as herein provided shall be subject to all provisions of section 221.170,
10 RSMo, even though he was not convicted and sentenced to a jail or workhouse.

11 (1) In misdemeanor cases, the period of detention under this section shall not exceed the
12 shorter of fifteen days or the maximum term of imprisonment authorized for the misdemeanor
13 by chapter 558, RSMo.

14 (2) In felony cases, the period of detention under this section shall not exceed one
15 hundred twenty days.

16 (3) If probation is revoked and a term of imprisonment is served by reason thereof, the
17 time spent in a jail, **half-way house, honor center,** workhouse or other institution as a detention
18 condition of probation shall be credited against the prison or jail term served for the offense in
19 connection with which the detention condition was imposed.

 559.115. 1. Neither probation nor parole shall be granted by the circuit court between
2 the time the transcript on appeal from the [defendant's] **offender's** conviction has been filed in
3 appellate court and the disposition of the appeal by such court.

4 2. **Unless otherwise prohibited by subsection 5 of this section,** a circuit court only
5 upon its own motion and not that of the state or the [defendant] **offender** shall have the power

6 to grant probation to a [defendant] **offender** anytime up to one hundred twenty days after such
7 [defendant] **offender** has been delivered to [the custody of] the department of corrections but not
8 thereafter. The court may request information and a recommendation from the department
9 concerning the [defendant] **offender** and such [defendant's] **offender's** behavior during the
10 period of incarceration. Except as provided in this section, the court may place the [defendant]
11 **offender** on probation in a program created pursuant to section 217.777, RSMo, or may place
12 the [defendant] **offender** on probation with any other conditions authorized by law.

13 **3. The court may recommend placement of an offender in a department of**
14 **corrections one hundred twenty day program. Upon the recommendation of the court, the**
15 **department of corrections shall determine the offender's eligibility for the program, the**
16 **nature, intensity, and duration of any offender's participation in a program and the**
17 **availability of space for an offender in any program. When the court recommends and**
18 **receives placement of an offender in a department of corrections one hundred twenty day**
19 **program, the offender shall be released on probation if the department of corrections**
20 **determines that the offender has successfully completed the program except as follows.**
21 **Upon successful completion of a treatment program, the board of probation and parole**
22 **shall advise the sentencing court of an offender's probationary release date thirty days**
23 **prior to release. The court shall release the offender unless such release constitutes an**
24 **abuse of discretion. If the court determined that there is an abuse of discretion, the court**
25 **may order the execution of the offender's sentence only after conducting a hearing on the**
26 **matter within ninety to one hundred twenty days of the offender's sentence. If the court**
27 **does not respond when an offender successfully completes the program, the offender shall**
28 **be released on probation. Upon successful completion of a shock incarceration program,**
29 **the board of probation and parole shall advise the sentencing court of an offender's**
30 **probationary release date thirty days prior to release. The court shall follow the**
31 **recommendation of the department unless the court determines that probation is not**
32 **appropriate. If the court determines that probation is not appropriate, the court may**
33 **order the execution of the offender's sentence only after conducting a hearing on the**
34 **matter within ninety to one hundred twenty days of the offender's sentence. If the**
35 **department determines that an offender is not successful in a program, then after one**
36 **hundred days of incarceration the circuit court shall receive from the department of**
37 **corrections a report on the offender's participation in the program and department**
38 **recommendations for terms and conditions of an offender's probation. The court shall**
39 **then release the offender on probation or order the offender to remain in the department**
40 **to serve the sentence imposed.**

41 **4. If the department of correction's one hundred twenty day program is full, the**

42 **court may place the offender in a private program approved by the department of**
43 **corrections or the court, the expenses of such program to be paid by the offender, or in an**
44 **available program offered by another organization. If the offender is convicted of a class**
45 **C or class D nonviolent felony, the court may order probation while awaiting appointment**
46 **to treatment.**

47 [3.] **5.** Except when the [defendant] **offender** has been found to be a predatory sexual
48 offender pursuant to section 558.018, RSMo, the court shall request that the [defendant]
49 **offender** be [place] **placed** in the sexual offender assessment unit of the department of
50 corrections if the defendant has pleaded guilty to or has been found guilty of sexual abuse when
51 classified as a class B felony.

52 [4.] **6.** **Unless the offender is being granted probation pursuant to successful**
53 **completion of a one hundred twenty day program** the circuit court shall notify the state in
54 writing when the court intends to grant probation to the [defendant] **offender** pursuant to the
55 provisions of this section. The state may, in writing, request a hearing within ten days of receipt
56 of the court's notification that the court intends to grant probation. Upon the state's request for
57 a hearing, the court shall grant a hearing as soon as reasonably possible. If the state does not
58 respond to the court's notice in writing within ten days, the court may proceed upon its own
59 motion to grant probation.

60 **7. An offender's first incarceration for one hundred twenty days for participation**
61 **in a department of corrections program prior to release on probation shall not be**
62 **considered a previous prison commitment for the purpose of determining a minimum**
63 **prison term under the provisions of section 558.019.**

64 [5.] **8.** Notwithstanding any other provision of law, probation may not be granted
65 pursuant to this section to [defendants] **offenders** who have been convicted of murder in the
66 second degree pursuant to section 565.021, RSMo; forcible rape pursuant to section 566.030,
67 RSMo; forcible sodomy pursuant to section 566.060, RSMo; statutory rape in the first degree
68 pursuant to section 566.032, RSMo; statutory sodomy in the first degree pursuant to section
69 566.062, RSMo; child molestation in the first degree pursuant to section 566.067, RSMo, when
70 classified as a class B felony; abuse of a child pursuant to section 568.060, RSMo, when
71 classified as a class A felony; a [defendant] **offender** who has been found to be a predatory
72 sexual offender pursuant to section 558.018, RSMo; or any offense in which there exists a
73 statutory prohibition against either probation or parole.

565.081. 1. A person commits the crime of assault of a law enforcement officer **or**
2 **emergency personnel** in the first degree if [he] **such person** attempts to kill or knowingly
3 causes or attempts to cause serious physical injury to a law enforcement officer **or emergency**
4 **personnel.**

5 **2. As used in this section, "emergency personnel" means any paid or volunteer**
6 **firefighter, emergency room or trauma center personnel, or emergency medical technician**
7 **as defined in subdivisions (15), (16), and (17) of section 190.100, RSMo.**

8 [2.] **3. Assault of a law enforcement officer or emergency personnel in the first degree**
9 **is a class A felony.**

 565.082. 1. A person commits the crime of assault of a law enforcement officer **or**
2 **emergency personnel** in the second degree if [he] **such person:**

3 (1) [Attempts to cause or] **Knowingly causes or attempts to cause** physical injury to a
4 law enforcement officer **or emergency personnel** by means of a deadly weapon or dangerous
5 instrument;

6 (2) **Recklessly causes serious physical injury to a law enforcement officer[;] or**
7 **emergency personnel; or**

8 (3) **While in an intoxicated condition or under the influence of controlled substances or**
9 **drugs, operates a motor vehicle in this state and when so operating, acts with criminal negligence**
10 **to cause physical injury to a law enforcement officer or emergency personnel.**

11 **2. As used in this section, "emergency personnel" means any paid or volunteer**
12 **firefighter, emergency room or trauma center personnel, or emergency medical technician**
13 **as defined in subdivisions (15), (16), and (17) of section 190.100, RSMo.**

14 [2.] **3. Assault of a law enforcement officer or emergency personnel in the second**
15 **degree is a class B felony.**

 565.083. 1. A person commits the crime of assault of a law enforcement officer **or**
2 **emergency personnel** in the third degree if:

3 (1) [He] **Such person** attempts to cause or recklessly causes physical injury to a law
4 enforcement officer **or emergency personnel;**

5 (2) **With criminal negligence [he] such person** causes physical injury to a law
6 enforcement officer **or emergency personnel** by means of a deadly weapon;

7 (3) [He] **Such person** purposely places a law enforcement officer **or emergency**
8 **personnel** in apprehension of immediate physical injury;

9 (4) [He recklessly engages in conduct which] **With criminal negligence such person**
10 **creates a grave risk of death or serious physical injury to a law enforcement officer or**
11 **emergency personnel; or**

12 (5) [He] **Such person** knowingly causes or attempts to cause physical contact with a law
13 enforcement officer **or emergency personnel** without the consent of the law enforcement officer
14 **or emergency personnel.**

15 **2. As used in this section, "emergency personnel" means any paid or volunteer**
16 **firefighter, emergency room or trauma center personnel, or emergency medical technician**

17 as defined in subdivisions (15), (16), and (17) of section 190.100, RSMo.

18 [2.] 3. Assault of a law enforcement officer or emergency personnel in the third degree
19 is a class A misdemeanor.

565.305. 1. As used in this section, the following terms and phrases shall mean:

2 (1) "Clone a human being" or "cloning a human being", the creation of a human
3 being by any means other than by the fertilization of an oocyte of a human female by a
4 sperm of a human male;

5 (2) "Cloned human being", a human being created by human cloning;

6 (3) "Public employee", any person employed by the state of Missouri or any agency
7 or political subdivision thereof;

8 (4) "Public facilities", any public institution, public facility, public equipment, or
9 any physical asset owned, leased, or controlled by the state of Missouri or any agency or
10 political subdivision thereof;

11 (5) "Public funds", any funds received or controlled by the state of Missouri or any
12 agency or political subdivision thereof, including, but not limited to, funds derived from
13 federal, state, or local taxes, gifts, or grants from any source, public or private, federal
14 grants or payments, or intergovernmental transfers.

15 2. No person shall knowingly clone a human being or participate in cloning a
16 human being.

17 3. No person shall knowingly use public funds to clone a human being or attempt
18 to clone a human being.

19 4. No person shall knowingly use public facilities to clone a human being or attempt
20 to clone a human being.

21 5. No public employee shall knowingly allow any person to clone a human being or
22 attempt to clone a human being while making use of public funds or public facilities.

23 6. Any person who violates the provisions of subsections 2 to 5 of this section is
24 guilty of a class B felony.

25 7. The laws of this state shall be interpreted and construed to acknowledge on
26 behalf of a cloned human being at every stage of development, all the rights, privileges, and
27 immunities available to other persons, citizens, and residents of this state, subject only to
28 the Constitution of the United States and decisional interpretations thereof by the United
29 States Supreme Court and specific provisions to the contrary in the statutes and
30 constitution of this state.

565.350. 1. Any pharmacist licensed pursuant to chapter 338, RSMo, commits the
2 **crime of tampering with a prescription or a prescription drug order as defined in section**
3 **338.095, RSMo, if such person knowingly:**

4 **(1) Causes the intentional adulteration of the concentration or chemical structure**
5 **of a prescribed drug or drug therapy without the knowledge and consent of the prescribing**
6 **practitioner;**

7 **(2) Misrepresents a misbranded, altered, or diluted prescription drug or drug**
8 **therapy with the purpose of misleading the recipient or the administering person of the**
9 **prescription drug or drug therapy; or**

10 **(3) Sells a misbranded, altered, or diluted prescription drug therapy with the**
11 **intention of misleading the purchaser.**

12 **2. Tampering with a prescription drug order is a class A felony.**

568.045. 1. A person commits the crime of endangering the welfare of a child in the first
2 degree if:

3 (1) The person knowingly acts in a manner that creates a substantial risk to the life, body,
4 or health of a child less than seventeen years old; or

5 (2) The person knowingly engages in sexual conduct with a person under the age of
6 seventeen years over whom the person is a parent, guardian, or otherwise charged with the care
7 and custody;

8 (3) The person knowingly encourages, aids or causes a child less than seventeen years
9 of age to engage in any conduct which violates the provisions of chapter 195, RSMo;

10 (4) Such person enlists the aid, either through payment or coercion, of a person less than
11 seventeen years of age to unlawfully manufacture, compound, produce, prepare, sell, transport,
12 test or analyze amphetamine or methamphetamine or any of their analogues, or to obtain any
13 material used to manufacture, compound, produce, prepare, test or analyze amphetamine or
14 methamphetamine or any of their analogues; or

15 (5) Such person, in the presence of a person less than seventeen years of age, unlawfully
16 manufactures, compounds, produces, prepares, sells, transports, tests or analyzes amphetamine
17 or methamphetamine or any of their analogues.

18 2. Endangering the welfare of a child in the first degree is a class [D] C felony unless the
19 offense is committed as part of a ritual or ceremony, or except on a second or subsequent
20 offense, in which case the crime is a class [C] B felony.

570.030. 1. A person commits the crime of stealing if he or she appropriates property
2 or services of another with the purpose to deprive him or her thereof, either without his or her
3 consent or by means of deceit or coercion.

4 2. Evidence of the following is admissible in any criminal prosecution pursuant to this
5 section on the issue of the requisite knowledge or belief of the alleged stealer:

6 (1) That he or she failed or refused to pay for property or services of a hotel, restaurant,
7 inn or boardinghouse;

8 (2) That he or she gave in payment for property or services of a hotel, restaurant, inn or
9 boardinghouse a check or negotiable paper on which payment was refused;

10 (3) That he or she left the hotel, restaurant, inn or boardinghouse with the intent to not
11 pay for property or services;

12 (4) That he or she surreptitiously removed or attempted to remove his or her baggage
13 from a hotel, inn or boardinghouse;

14 (5) That he or she, with intent to cheat or defraud a retailer, possesses, uses, utters,
15 transfers, makes, alters, counterfeits, or reproduces a retail sales receipt, price tag, or universal
16 price code label, or possesses with intent to cheat or defraud, the device that manufactures
17 fraudulent receipts or universal price code labels.

18 3. Notwithstanding any other provision of law, any offense in which the value of
19 property or services is an element is a class C felony if:

20 (1) The value of the property or services appropriated is five hundred dollars or more but
21 less than twenty-five thousand dollars; or

22 (2) The actor physically takes the property appropriated from the person of the victim;
23 or

24 (3) The property appropriated consists of:

25 (a) Any motor vehicle, watercraft or aircraft; or

26 (b) Any will or unrecorded deed affecting real property; or

27 (c) Any credit card or letter of credit; or

28 (d) Any firearms; or

29 (e) A United States national flag designed, intended and used for display on buildings
30 or stationary flagstaffs in the open; or

31 (f) Any original copy of an act, bill or resolution, introduced or acted upon by the
32 legislature of the state of Missouri; or

33 (g) Any pleading, notice, judgment or any other record or entry of any court of this state,
34 any other state or of the United States; or

35 (h) Any book of registration or list of voters required by chapter 115, RSMo; or

36 (i) Any animal of the species of horse, mule, ass, cattle, swine, sheep, or goat; or

37 (j) Live fish raised for commercial sale with a value of seventy-five dollars; or

38 (k) Any controlled substance as defined by section 195.010, RSMo; or

39 (l) Anhydrous ammonia; or

40 (m) Ammonium nitrate.

41 4. If an actor appropriates any material with a value less than five hundred dollars in
42 violation of this section with the intent to use such material to manufacture, compound, produce,
43 prepare, test or analyze amphetamine or methamphetamine or any of their analogues, then such

44 violation is a class **[D] C** felony. The theft of any amount of anhydrous ammonia or liquid
45 nitrogen, or any attempt to steal any amount of anhydrous ammonia or liquid nitrogen, is a class
46 **[C] B** felony. The theft of any amount of anhydrous ammonia by appropriation of a tank truck,
47 tank trailer, rail tank car, bulk storage tank, field (nurse) tank or field applicator is a class A
48 felony.

49 5. The theft of any item of property or services pursuant to subsection 3 of this section
50 which exceeds five hundred dollars may be considered a separate felony and may be charged in
51 separate counts.

52 6. Any person with a prior conviction of paragraph (i) of subdivision (3) of subsection
53 3 of this section and who violates the provisions of paragraph (i) of subdivision (3) of subsection
54 3 of this section when the value of the animal or animals stolen exceeds three thousand dollars
55 is guilty of a class B felony.

56 7. Any offense in which the value of property or services is an element is a class B felony
57 if the value of the property or services equals or exceeds twenty-five thousand dollars.

58 8. Any violation of this section for which no other penalty is specified in this section is
59 a class A misdemeanor.

570.040. 1. Every person who has previously pled guilty or been found guilty on two
2 separate occasions of a stealing-related offense where such offenses occurred within ten years
3 of the date of occurrence of the present offense and where the person received and served a
4 sentence of ten days or more on such previous offense and who subsequently pleads guilty or is
5 found guilty of a stealing-related offense is guilty of a class **[C] D** felony and shall be punished
6 accordingly.

7 2. As used in this section, the term "stealing-related offense" shall include federal and
8 state violations of criminal statutes against stealing or buying or receiving stolen property and
9 shall also include municipal ordinances against same if the defendant was either represented by
10 counsel or knowingly waived counsel in writing and the judge accepting the plea or making the
11 findings was a licensed attorney at the time of the court proceedings.

12 3. Evidence of prior guilty pleas or findings of guilt shall be heard by the court, out of
13 the hearing of the jury, prior to the submission of the case to the jury, and the court shall
14 determine the existence of the prior guilty pleas or findings of guilt.

571.030. 1. A person commits the crime of unlawful use of weapons if he or she
2 knowingly:

3 (1) Carries concealed upon or about his or her person a knife, a firearm, a blackjack or
4 any other weapon readily capable of lethal use; or

5 (2) Sets a spring gun; or

6 (3) Discharges or shoots a firearm into a dwelling house, a railroad train, boat, aircraft,

7 or motor vehicle as defined in section 302.010, RSMo, or any building or structure used for the
8 assembling of people; or

9 (4) Exhibits, in the presence of one or more persons, any weapon readily capable of
10 lethal use in an angry or threatening manner; or

11 (5) Possesses or discharges a firearm or projectile weapon while intoxicated; or

12 (6) Discharges a firearm within one hundred yards of any occupied schoolhouse,
13 courthouse, or church building; or

14 (7) Discharges or shoots a firearm at a mark, at any object, or at random, on, along or
15 across a public highway or discharges or shoots a firearm into any outbuilding; or

16 (8) Carries a firearm or any other weapon readily capable of lethal use into any church
17 or place where people have assembled for worship, or into any election precinct on any election
18 day, or into any building owned or occupied by any agency of the federal government, state
19 government, or political subdivision thereof, or into any public assemblage of persons met for
20 any lawful purpose; or

21 (9) Discharges or shoots a firearm at or from a motor vehicle, as defined in section
22 301.010, RSMo, while within any city, town, or village, and discharges or shoots a firearm at any
23 person, or at any other motor vehicle, or at any building or habitable structure, unless the person
24 was lawfully acting in self-defense; or

25 (10) Carries a firearm, whether loaded or unloaded, or any other weapon readily capable
26 of lethal use into any school, onto any school bus, or onto the premises of any function or activity
27 sponsored or sanctioned by school officials or the district school board.

28 2. Subdivisions (1), (3), (4), (6), (7), (8), (9) and (10) of subsection 1 of this section shall
29 not apply to or affect any of the following:

30 (1) All state, county and municipal law enforcement officers **who have completed the**
31 **training required by Police Officer Standards and Training Commission pursuant to**
32 **sections 590.030 to 590.050, RSMo, and** possessing the duty and power of arrest for violation
33 of the general criminal laws of the state or for violation of ordinances of counties or
34 municipalities of the state, **whether on duty or off duty, and whether in or outside of the law**
35 **enforcement agency's jurisdiction**, or any person summoned by such officers to assist in
36 making arrests or preserving the peace while actually engaged in assisting such officer;

37 (2) Wardens, superintendents and keepers of prisons, penitentiaries, jails and other
38 institutions for the detention of persons accused or convicted of crime;

39 (3) Members of the armed forces or national guard while performing their official duty;

40 (4) Those persons vested by article V, section 1 of the Constitution of Missouri with the
41 judicial power of the state and those persons vested by article III of the Constitution of the United
42 States with the judicial power of the United States, the members of the federal judiciary;

43 (5) Any person whose bona fide duty is to execute process, civil or criminal;

44 (6) Any federal probation officer;

45 (7) Any state probation or parole officer, including supervisors and members of the
46 board of probation and parole; and

47 (8) Any corporate security advisor meeting the definition and fulfilling the requirements
48 of the regulations established by the board of police commissioners under section 84.340, RSMo.

49 3. Subdivisions (1), (5), (8) and (10) of subsection 1 of this section do not apply when
50 the actor is transporting such weapons in a nonfunctioning state or in an unloaded state when
51 ammunition is not readily accessible or when such weapons are not readily accessible.
52 Subdivision (1) of subsection 1 of this section does not apply when the actor is also in possession
53 of an exposed firearm or projectile weapon for the lawful pursuit of game, or is in his dwelling
54 unit or upon business premises over which the actor has possession, authority or control, or is
55 traveling in a continuous journey peaceably through this state. Subdivision (10) of subsection
56 1 of this section does not apply if the firearm is otherwise lawfully possessed by a person while
57 traversing school premises for the purposes of transporting a student to or from school, or
58 possessed by an adult for the purposes of facilitation of a school-sanctioned firearm- related
59 event.

60 4. Nothing in this section shall make it unlawful for a student to actually participate in
61 school-sanctioned gun safety courses, student military or ROTC courses, or other
62 school-sponsored firearm-related events, provided the student does not carry a firearm or other
63 weapon readily capable of lethal use into any school, onto any school bus, or onto the premises
64 of any function or activity sponsored or sanctioned by school officials or the district school
65 board.

66 5. Unlawful use of weapons is a class D felony unless committed pursuant to subdivision
67 (5), (6), (7) or (8) of subsection 1 of this section, in which cases it is a class B misdemeanor, or
68 subdivision (10) of subsection 1 of this section, in which case it is a class A misdemeanor if the
69 firearm is unloaded and a class D felony if the firearm is loaded, or subdivision (9) of subsection
70 1 of this section, in which case it is a class B felony, except that if the violation of subdivision
71 (9) of subsection 1 of this section results in injury or death to another person, it is a class A
72 felony.

73 6. Violations of subdivision (9) of subsection 1 of this section shall be punished as
74 follows:

75 (1) For the first violation a person shall be sentenced to the maximum authorized term
76 of imprisonment for a class B felony;

77 (2) For any violation by a prior offender as defined in section 558.016, RSMo, a person
78 shall be sentenced to the maximum authorized term of imprisonment for a class B felony without

79 the possibility of parole, probation or conditional release for a term of ten years;

80 (3) For any violation by a persistent offender as defined in section 558.016, RSMo, a
81 person shall be sentenced to the maximum authorized term of imprisonment for a class B felony
82 without the possibility of parole, probation, or conditional release;

83 (4) For any violation which results in injury or death to another person, a person shall
84 be sentenced to an authorized disposition for a class A felony.

85 7. Any person knowingly aiding or abetting any other person in the violation of
86 subdivision (9) of subsection 1 of this section shall be subject to the same penalty as that
87 prescribed by this section for violations by other persons.

589.400. 1. Sections 589.400 to 589.425 shall apply to:

2 (1) Any person who, since July 1, 1979, has been or is hereafter convicted of, been
3 found guilty of, or pled guilty to committing, or attempting to commit, a felony offense of
4 chapter 566, RSMo, or any offense of chapter 566, RSMo, where the victim is a minor; or

5 (2) Any person who, since July 1, 1979, has been or is hereafter convicted of, been found
6 guilty of, or pled guilty to committing, or attempting to commit one or more of the following
7 offenses: kidnapping, pursuant to section 565.110, RSMo; felonious restraint; promoting
8 prostitution in the first degree; promoting prostitution in the second degree; promoting
9 prostitution in the third degree; incest; abuse of a child, pursuant to section 568.060, RSMo; use
10 of a child in a sexual performance; or promoting sexual performance by a child; and committed
11 or attempted to commit the offense against a victim who is a minor, defined for the purposes of
12 sections 589.400 to 589.425 as a person under eighteen years of age; or

13 (3) Any person who, since July 1, 1979, has been committed to the department of mental
14 health as a criminal sexual psychopath; or

15 (4) Any person who, since July 1, 1979, has been found not guilty as a result of mental
16 disease or defect of any offense listed in subdivision (1) or (2) of this subsection; or

17 (5) Any person who is a resident of this state who has, since July 1, 1979, or is hereafter
18 convicted of, been found guilty of, or pled guilty to or nolo contendere in any other state or under
19 federal jurisdiction to committing, or attempting to commit, an offense which, if committed in
20 this state, would be a violation of chapter 566, RSMo, or a felony violation of any offense listed
21 in subdivision (2) of this subsection or has been or is required to register in another state or has
22 been or is required to register under federal or military law; or

23 (6) Any person who has been or is required to register in another state or has been or is
24 required to register under federal or military law and who works or attends school or training on
25 a full-time or on a part-time basis in Missouri. "Part-time" in this subdivision means for more
26 than fourteen days in any twelve-month period.

27 2. Any person to whom sections 589.400 to 589.425 apply shall, within ten days of

28 conviction, release from incarceration, or placement upon probation, register with the chief law
29 enforcement official of the county in which such person resides unless such person has already
30 registered in that county for the same offense. Any person to whom sections 589.400 to 589.425
31 apply if not currently registered in their county of residence shall register with the chief law
32 enforcement official of such county within ten days of August 28, 2002. The chief law
33 enforcement official shall forward a copy of the registration form required by section 589.407
34 to a city, town [or], village, **or campus** law enforcement agency located within the county of the
35 chief law enforcement official, if so requested. Such request may ask the chief law enforcement
36 official to forward copies of all registration forms filed with such official.

37 The chief law enforcement official may forward a copy of such registration form to any city,
38 town [or], village, **or campus** law enforcement agency, if so requested.

39 3. The registration requirements of sections 589.400 through 589.425 are lifetime
40 registration requirements unless all offenses requiring registration are reversed, vacated or set
41 aside or unless the registrant is pardoned of the offenses requiring registration.

589.407. Any registration pursuant to sections 589.400 to 589.425 shall consist of
2 completion of an offender registration form developed by the Missouri state highway patrol.
3 Such form shall include, but is not limited to the following:

4 (1) A statement in writing signed by the person, giving the name, address, Social
5 Security number and phone number of the person, the place of employment of such person,
6 **enrollment within any institutions of higher education**, the crime which requires registration,
7 whether the person was sentenced as a persistent or predatory offender pursuant to section
8 558.018, RSMo, the date, place, and a brief description of such crime, the date and place of the
9 conviction or plea regarding such crime, the age and gender of the victim at the time of the
10 offense and whether the person successfully completed the Missouri sexual offender program
11 pursuant to section 589.040, if applicable; and

12 (2) The fingerprints and a photograph of the person.

589.414. 1. If any person required by sections 589.400 to 589.425 to register changes
2 residence or address within the same county as such person's previous address, the person shall
3 inform the chief law enforcement official in writing within ten days of such new address and
4 phone number, if the phone number is also changed.

5 2. If any person required by sections 589.400 to 589.425 to register changes such
6 person's residence or address to a different county, the person shall appear in person and shall
7 inform both the chief law enforcement official with whom the person last registered and the chief
8 law enforcement official of the county having jurisdiction over the new residence or address in
9 writing within ten days, of such new address and phone number, if the phone number is also
10 changed. If any person required by sections 589.400 to 589.425 to register changes their state

11 of residence, the person shall appear in person and shall inform both the chief law enforcement
12 official with whom the person was last registered and the chief law enforcement official of the
13 area in the new state having jurisdiction over the new residence or address within ten days of
14 such new address. Whenever a registrant changes residence, the chief law enforcement official
15 of the county where the person was previously registered shall promptly inform the Missouri
16 state highway patrol of the change. When the registrant is changing the residence to a new state,
17 the Missouri state highway patrol shall promptly inform the responsible official in the new state
18 of residence.

19 **3. Any person required by sections 589.400 to 589.425 to register who changes his**
20 **or her enrollment or employment status with any institution of higher education within this**
21 **state, by either beginning or ending such enrollment or employment, shall inform the chief**
22 **law enforcement officer of such change within seven days after such change is made.**

23 [3.] 4. Any person required by sections 589.400 to 589.425 to register who officially
24 changes such person's name shall inform the chief law enforcement officer of such name change
25 within seven days after such change is made.

26 [4.] 5. In addition to the requirements of subsections 1 and 2 of this section, the
27 following offenders shall report in person to the county law enforcement agency every ninety
28 days to verify the information contained in their statement made pursuant to section 589.407:

29 (1) Any offender registered as a predatory or persistent sexual offender under the
30 definitions found in section 558.018, RSMo;

31 (2) Any offender who is registered for a crime where the victim was less than eighteen
32 years of age at the time of the offense; and

33 (3) Any offender who has pled guilty or been found guilty pursuant to section 589.425
34 of failing to register or submitting false information when registering.

35 [5.] 6. In addition to the requirements of subsections 1 and 2 of this section, all
36 registrants shall report annually in person in the month of their birth to the county law
37 enforcement agency to verify the information contained in their statement made pursuant to
38 section 589.407.

39 [6.] 7. In addition to the requirements of subsections 1 and 2 of this section, all Missouri
40 registrants who work or attend school or training on a full-time or part-time basis in any other
41 state shall be required to report in person to the chief law enforcement officer in the area of the
42 state where they work or attend school or training and register in that state. Part-time in this
43 subsection means for more than fourteen days in any twelve-month period.

595.209. 1. The following rights shall automatically be afforded to victims of dangerous
2 felonies, as defined in section 556.061, RSMo, victims of murder in the first degree, as defined
3 in section 565.020, RSMo, victims of voluntary manslaughter, as defined in section 565.023,

4 RSMo, and victims of an attempt to commit one of the preceding crimes, as defined in section
5 564.011, RSMo; and, upon written request, the following rights shall be afforded to victims of
6 all other crimes and witnesses of crimes:

7 (1) For victims, the right to be present at all criminal justice proceedings at which the
8 defendant has such right, including juvenile proceedings where the offense would have been a
9 felony if committed by an adult, **even if the victim is called to testify or may be called to**
10 **testify as a witness in the case;**

11 (2) For victims, the right to information about the crime, as provided for in subdivision
12 (5) of this subsection;

13 (3) For victims and witnesses, to be informed, in a timely manner, by the prosecutor's
14 office of the filing of charges, preliminary hearing dates, trial dates, continuances and the final
15 disposition of the case. Final disposition information shall be provided within five days;

16 (4) For victims, the right to confer with and to be informed by the prosecutor regarding
17 bail hearings, guilty pleas, pleas under chapter 552, RSMo, or its successors, hearings, sentencing
18 and probation revocation hearings and the right to be heard at such hearings, including juvenile
19 proceedings, unless in the determination of the court the interests of justice require otherwise;

20 (5) The right to be informed by local law enforcement agencies, the appropriate juvenile
21 authorities or the custodial authority of the following:

22 (a) The status of any case concerning a crime against the victim, including juvenile
23 offenses;

24 (b) The right to be informed by local law enforcement agencies or the appropriate
25 juvenile authorities, of the availability of victim compensation assistance, assistance in obtaining
26 documentation of the victim's losses, including, but not limited to and subject to existing law
27 concerning protected information or closed records, access to copies of complete, unaltered,
28 unedited investigation reports of motor vehicle, pedestrian, and other similar accidents upon
29 request to the appropriate law enforcement agency by the victim or the victim's representative,
30 and emergency crisis intervention services available in the community;

31 (c) Any release of such person on bond or for any other reason;

32 (d) Within twenty-four hours, any escape by such person from a municipal detention
33 facility, county jail, a correctional facility operated by the department of corrections, mental
34 health facility, or the division of youth services or any agency thereof, and any subsequent
35 recapture of such person;

36 (6) For victims, the right to be informed by appropriate juvenile authorities of probation
37 revocation hearings initiated by the juvenile authority and the right to be heard at such hearings
38 or to offer a written statement, video or audio tape in lieu of a personal appearance, the right to
39 be informed by the board of probation and parole of probation revocation hearings initiated by

40 the board and of parole hearings, the right to be present at each and every phase of parole
41 hearings and the right to be heard at probation revocation and parole hearings or to offer a written
42 statement, video or audio tape in lieu of a personal appearance, and the right to be informed by
43 the custodial mental health facility or agency thereof of any hearings for the release of a person
44 committed pursuant to the provisions of chapter 552, RSMo, the right to be present at such
45 hearings, the right to be heard at such hearings or to offer a written statement, video or audio tape
46 in lieu of personal appearance;

47 (7) For victims and witnesses, upon their written request, the right to be informed by the
48 appropriate custodial authority, including any municipal detention facility, juvenile detention
49 facility, county jail, correctional facility operated by the department of corrections, mental health
50 facility, division of youth services or agency thereof if the offense would have been a felony if
51 committed by an adult, postconviction or commitment pursuant to the provisions of chapter 552,
52 RSMo, of the following:

53 (a) The projected date of such person's release from confinement;

54 (b) Any release of such person on bond;

55 (c) Any release of such person on furlough, work release, trial release, electronic
56 monitoring program, or to a community correctional facility or program or release for any other
57 reason, in advance of such release;

58 (d) Any scheduled parole or release hearings regarding such person and any changes in
59 the scheduling of such hearings. No such hearing shall be conducted without thirty days' advance
60 notice;

61 (e) Within twenty-four hours, any escape by such person from a municipal detention
62 facility, county jail, a correctional facility operated by the department of corrections, mental
63 health facility, or the division of youth services or any agency thereof, and any subsequent
64 recapture of such person;

65 (f) Any decision by a parole board, juvenile releasing authority or circuit court presiding
66 over releases pursuant to the provisions of chapter 552, RSMo, to release such person or any
67 decision by the governor to commute the sentence of such person or pardon such person;

68 (g) Notification within thirty days of the death of such person;

69 (8) For witnesses who have been summoned by the prosecuting attorney and for victims,
70 to be notified by the prosecuting attorney in a timely manner when a court proceeding will not
71 go on as scheduled;

72 (9) For victims and witnesses, the right to reasonable protection from the defendant or
73 any person acting on behalf of the defendant from harm and threats of harm arising out of their
74 cooperation with law enforcement and prosecution efforts;

75 (10) For victims and witnesses, on charged cases or submitted cases where no charge

76 decision has yet been made, to be informed by the prosecuting attorney of the status of the case
77 and of the availability of victim compensation assistance and of financial assistance and
78 emergency and crisis intervention services available within the community and information
79 relative to applying for such assistance or services, and of any final decision by the prosecuting
80 attorney not to file charges;

81 (11) For victims, to be informed by the prosecuting attorney of the right to restitution
82 which shall be enforceable in the same manner as any other cause of action as otherwise
83 provided by law;

84 (12) For victims and witnesses, to be informed by the court and the prosecuting attorney
85 of procedures to be followed in order to apply for and receive any witness fee to which they are
86 entitled;

87 (13) When a victim's property is no longer needed for evidentiary reasons or needs to be
88 retained pending an appeal, the prosecuting attorney or any law enforcement agency having
89 possession of the property shall, upon request of the victim, return such property to the victim
90 within five working days unless the property is contraband or subject to forfeiture proceedings,
91 or provide written explanation of the reason why such property shall not be returned;

92 (14) An employer may not discharge or discipline any witness, victim or member of a
93 victim's immediate family for honoring a subpoena to testify in a criminal proceeding or for
94 participating in the preparation of a criminal proceeding;

95 (15) For victims, to be provided with creditor intercession services by the prosecuting
96 attorney if the victim is unable, as a result of the crime, temporarily to meet financial obligations;

97 (16) For victims and witnesses, the right to speedy disposition of their cases, and for
98 victims, the right to speedy appellate review of their cases, provided that nothing in this
99 subdivision shall prevent the defendant from having sufficient time to prepare such defendant's
100 defense. The attorney general shall provide victims, upon their written request, case status
101 information throughout the appellate process of their cases. The provisions of this subdivision
102 shall apply only to proceedings involving the particular case to which the person is a victim or
103 witness;

104 (17) For victims and witnesses, to be provided by the court, a secure waiting area during
105 court proceedings and to receive notification of the date, time and location of any hearing
106 conducted by the court for reconsideration of any sentence imposed, modification of such
107 sentence or recall and release of any defendant from incarceration.

108 2. The provisions of subsection 1 of this section shall not be construed to imply any
109 victim who is incarcerated by the department of corrections or any local law enforcement agency
110 has a right to be released to attend any hearing or that the department of corrections or the local
111 law enforcement agency has any duty to transport such incarcerated victim to any hearing.

112 3. Those persons entitled to notice of events pursuant to the provisions of subsection 1
113 of this section shall provide the appropriate person or agency with their current addresses and
114 telephone numbers or the addresses or telephone numbers at which they wish notification to be
115 given.

116 4. Notification by the appropriate person or agency by certified mail to the most current
117 address provided by the victim shall constitute compliance with the victim notification
118 requirement of this section.

119 5. Victims' rights as established in section 32 of article I of the Missouri Constitution or
120 the laws of this state pertaining to the rights of victims of crime shall be granted and enforced
121 regardless of the desires of a defendant and no privileges of confidentiality shall exist in favor
122 of the defendant to exclude victims or prevent their full participation in each and every phase of
123 parole hearings or probation revocation hearings. The rights of the victims granted in this section
124 are absolute and the policy of this state is that the victim's rights are paramount to the defendant's
125 rights. The victim has an absolute right to be present at any hearing in which the defendant is
126 present before a probation and parole hearing officer.

 Section B. Because of the need to relieve the overcrowding in the prisons of this state,
2 section A of this act is deemed necessary for the immediate preservation of the public health,
3 welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of
4 the constitution, and section A of this act shall be in full force and effect upon its passage and
5 approval.